IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 10347 of 2004

Between:

Behra Eswara Rao S/o late Balakrishna, 46 Superintenent S.E. Railway, R/o Rly. Quarter No. 641/3, Jail Area, Visakhapatnam

..... PETITIONER

AND

1 The Collector and District Magistrate, Srikakulam District, Srikakulam
2 The Government of Andhra Pradesh, rep by Secretary, Social Welfare Department, Secretariat, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ order or direction particularly one in the nature of Mandamus or any other appropriate Writ declaring the order of the 2nd Respondent issued in proceedings in G.O.Ms. No. 48 dt 31-5-2004 upholding the order of the 1st Respondent in canceling the caste certificate issued to the petitioner as illegal, void bad in law and against the principles of natural justice and direct the 2nd respondent to pass orders after giving sufficient opportunity of hearing and after producing the oral or documentary evidence to the petitioner

For the Petitioner: Dr. P.B. VIJAY KUMAR (Advocate)

For the Respondents No.: GP for Social Welfare

The Court Made the Following :

Oral order:

In this writ petition, the petitioner has called in question, the orders issued by the Government in G.O. Ms. No. 48, Social Welfare (CV.2) Department, dated 31-5-2004, dismissing the appeal filed by the petitioner assailing the cancellation of his Caste Certificate by the District Collector, Srikakulam.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue for the respondents.

A reading of the impugned G.O. would disclose that Principal Secretary to Government in the Social Welfare Department, dismissed the appeal preferred by the petitioner because though he was given opportunity to putforth his case and adjourned the matters on 28-3-2004, 29-4-2003, 7-7-2003, 18-7-2003, 19-9-2003,
5-12-2003 and 5-12-2003, neither the petitioner nor his counsel represented, and in those circumstances, he dismissed the appeal confirming the orders passed by the District Collector, Srikakulam.

The learned counsel for the petitioner however contends that on all those days, he appeared before the Government, but the Minister concerned was either out of station or was not present, and as such, he could not putforth the case of the petitioner.

Admittedly, the appeal came to be dismissed for default for non-appearance of the petitioner and his counsel. Since, the impugned order was passed without hearing the petitioner, it was agreed to by both the counsel that the writ petition be disposed of giving the petitioner one more opportunity to put forth his case.

In view of the agreed stand taken by both the counsel, I deem it appropriate to dispose of the writ petition with the following directions:

The impugned G.O. is quashed and set aside. Respondent No.2 shall afford an opportunity, and in this context, respondent No.2 shall send notice to the counsel for the petitioner by RPAD fixing the date of hearing of the appeal, and on the appointed day, the counsel for the petitioner, shall without taking any adjournment, shall advance his arguments, and respondent No.2 shall upon hearing the arguments, consider and dispose of the appeal on merits, and pass appropriate orders. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

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N.V. RAMANA, J.

Date: June 23, 2004.
KSR

Sd/-
ASSISTANT REGISTRAR.
//True copy//
SECTION OFFICER.

To

1 The Collector and District Magistrate, Srikakulam District, Srikakulam
2 The Secretary, Social Welfare department,Government of Andhra Pradesh, Secretariat, Hyderabad.
3 2 CCs copies to GP for Social Welfare, High Court Buildings (O.U.T).
4 2 CD copies.

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THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 10347 of 2004

Dated: 23-06-2004